

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

<p>DALIT COHEN, <i>individually herself and on behalf of all others similarly situated,</i></p> <p style="text-align: center;">Plaintiff, -v- SARAYA USA, INC., <i>a Utah Corporation, and DOES 1 THROUGH 50, inclusive,</i></p> <p style="text-align: center;">Defendants.</p>	<p style="text-align: right;">2:23-cv-8079 (NJC) (JMW)</p>
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**MEMORANDUM AND ORDER**

NUSRAT J. CHOUDHURY, United States District Judge:

On April 1, 2024, Defendant Saraya USA, Inc. (“Saraya”) served on Plaintiff Dalit Cohen (“Cohen”) a Motion to Dismiss the Amended Complaint pursuant to Rule 12(b)(1) and (6) of the Federal Rules of Civil Procedure (“Fed. R. Civ. P.”) or, in the alternative, to stay the case (“Motion”), and the fully briefed Motion was filed on the docket on May 13, 2024. (Mot., ECF No. 22.) On January 20, 2025, Magistrate Judge James M. Wicks issued a Report and Recommendation (the “R&R”) recommending that I grant the Motion and Dismiss the Amended Complaint with prejudice or, if I decline to dismiss, that I stay the proceedings pending resolution of the motion to dismiss in *Prescott v. Saraya USA Inc.*, No. 23-cv-17 (S.D. Cal. 2023), a substantially similar case against Saraya in the Southern District of California. (R&R at

42–43, ECF No. 23.) A copy of the R&R was filed electronically on January 20, 2025. (*See id.*)

The R&R instructed that any objections to the R&R must be submitted in writing to the Clerk of Court within fourteen (14) days of service (i.e., by February 3, 2025). (*Id.* at 43–44.)

The date for filing any objections has thus expired, and no party has filed an objection to the R&R. In reviewing a report and recommendation, the court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1)(C). If no objections are filed, a district court reviews a report and recommendation for clear error. *King v. Paradise Auto Sales I, Inc.*, No. 15-cv-1188, 2016 WL 4595991, at \*1 (E.D.N.Y. Sept. 2, 2016) (citation omitted); *Covey v. Simonton*, 481 F. Supp. 2d 224, 226 (E.D.N.Y. 2007).

Because a motion to dismiss is dispositive, and because no party has filed timely objections to the R&R, I may review the R&R for clear error. *King*, 2016 WL 4595991, at \*1. Nevertheless, I reviewed the R&R de novo out of an abundance of caution. Having reviewed the motion papers, the applicable law, and the R&R, I adopt the thorough and well-reasoned R&R’s recommendation that I dismiss the Amended Complaint. (*See* ECF No. 23 at 42–43).

Accordingly, I grant Saraya's Motion (ECF No. 22) and dismiss the Amended Complaint with prejudice pursuant to Rule 12(b)(1) and (6), Fed. R. Civ. P. In light of this dismissal, the Motion's alternative request to stay the proceedings is dismissed as moot. The Clerk of Court shall enter judgment and close this case.

Dated: Central Islip, New York  
February 23, 2025

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*/s Nusrat J. Choudhury*

NUSRAT J. CHOUDHURY  
United States District Judge